

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Stephen KINGSMORE, et al.

Serial Number: 10/759,216

Filing Date: January 20, 2004

Title: BIOMARKERS FOR SEPSIS

Group Art Unit: 1645

Examiner: Brian J. Gangle

**CONFIRMATION NO: 6434**

FILED ELECTRONICALLY ON: July 7, 2009

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.97**

Sir:

An Information Disclosure Statement along with attached PTO/SB/08 is hereby submitted. A copy of each listed publication is submitted, if required, pursuant to 37 CFR §§1.97-1.98, as indicated below.

The Examiner is requested to review the information provided and to make the information of record in the above-identified application. The Examiner is further requested to initial and return the attached PTO/SB/08 in accordance with MPEP §609.

The right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered, is hereby reserved.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in §1.56.

A. ☐ 37 CFR §1.97(b). This Information Disclosure Statement should be considered by the Office because:

☐ (1) It is being filed within 3 months of the filing date of a national application and is other than a continued prosecution application under §1.53(d);

-- OR --

☐ (2) It is being filed within 3 months of entry of the national stage as set forth in §1.491 in an international application;

-- OR --

☐ (3) It is being filed before the mailing of a first Office action on the merits;

-- OR --

☐ (4) It is being filed before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

B. ☒ 37 CFR §1.97(c). Although this Information Disclosure Statement is being filed after the period specified in 37 CFR §1.97(b), above, it is filed before the mailing date of the earlier of (1) a final office action under §1.113, (2) a notice of allowance under §1.311, or (3) an action that otherwise closes prosecution on the merits, this Information Disclosure Statement should be considered because it is accompanied by one of:

☐ a statement as specified in §1.97(e) provided concurrently herewith;

-- OR --

☒ a fee of \$180.00 as set forth in §1.17(p) authorized below, enclosed, or included with the payment of other papers filed together with this statement.

C. ☐ 37 CFR §1.97(d). Although this Information Disclosure Statement is being filed after the mailing date of the earlier of (1) a final office action under §1.113 or (2) a notice of allowance under §1.311, it is being filed before payment of the issue fee and should be considered because it is accompanied by:

i. a statement as specified in §1.97(e);

-- AND --

ii. a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this Statement.

D. ☐ 37 CFR §1.97(e). Statement.

☐ A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(c);

-- AND/OR --

☐ A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(d);

-- AND/OR --

☐ A copy of a dated communication from a foreign patent office clearly showing that the information disclosure statement is being submitted within 3 months of the filing date on the communication is provided in lieu of a statement under 37 C.F.R. § 1.97(e)(1) as provided for under MPEP 609.04(b) V.

E. ☐ Statement Under 37 C.F.R. §1.704(d). Each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart application that was received by an individual designated in § 1.56(c) not more than thirty (30) days prior to the filing of this information disclosure statement. This statement is made pursuant to the

requirements of 37 C.F.R. §1.704(d) to avoid reduction of the period of adjustment of the patent term for Applicant(s) delay.

F. ☒ 37 CFR §1.98(a)(2). The content of the Information Disclosure Statement is as follows:

☐ Copies of each of the references listed on the attached Form PTO/SB/08 are enclosed herewith.

-- OR --

☒ Copies of U.S. Patent Documents (issued patents and patent publications) listed on the attached Form PTO/SB/08 are NOT enclosed.

-- AND/OR --

☒ Copies of Foreign Patent Documents and/or Non Patent Literature Documents listed on the attached Form PTO/SB/08 are enclosed in accordance with 37 CFR §1.98 (a)(2).

-- AND/OR --

☐ Copies of pending unpublished U.S. patent applications are enclosed in accordance with 37 CFR §1.98(a)(2)(iii).

G. ☐ 37 CFR §1.98(a)(3). The Information Disclosure Statement includes non-English patents and/or references.

☐ Pursuant to 37 CFR §1.98(a)(3)(i), a concise explanation of the relevance of each patent, publication or other information provided that is not in English is provided herewith.

☐ Pursuant to MPEP 609(B), an English language copy of a foreign search report is submitted herewith to satisfy the requirement for a concise explanation where non-English language information is cited in the search report.

-- OR --

☐ A concise explanation of the relevance of each patent, publication or other information provided that is not in English is as follows: \_\_\_\_\_

☐ Pursuant to 37 CFR §1.98(a)(3)(ii), a copy of a translation, or a portion thereof, of the non-English language reference(s) is provided herewith.

H. In accordance with the duty of disclosure under 37 C.F.R. § 1.56 and set forth in M.P.E.P. § 2001.06(b), Applicants wish to bring to the Examiner's attention the patents and co-pending United States applications which may be related to the instant application and may be material to patentability, listed below. The chart below is designed to assist the Examiner in the evaluation of the instant application. The status information, compiled from PAIR, is believed to be current as of 7/2/2009 and is subject to change. Copies of the published applications/patents, if applicable, have been cited in a previous Information Disclosure Statement and/or are cited herein and listed on the attached PTO Form SB/08.

No.	U.S. Serial No.	Attorney Docket No.	U.S. Publication No.	PAIR Status	Date	Examiner
1.	11/543,312	36671-719.201	US 2007-0092911	Non Final	5/29/2009	Cherie

			A1	Action Mailed		Michelle Woodward
2.	11/690,767	36671-719.501	US 2008-0050832 A1	Non Final Action Mailed	3/3/2009	Cherie Michelle Woodward
3.	11/770,608	36671-719.502	US 2009-0004755 A1	Non Final Action Mailed	6/1/2009	Cherie Michelle Woodward
4.	10/952,275	36671-746.201	US 2005-0164238 A1	Abandoned - - Failure to Respond to an Office Action	6/22/2009	Christine E. Foster
5.	11/022,552	36671-746.501	US 2005-0148029 A1	Non Final Action Mailed	12/19/2008	Christine E. Foster
6.	08/832,935	36671-761.201	5,965,375	Patented Case	10/01/1999	Padmavathi Baskar
7.	09/363,960	36671-761.401	6,503,722	Patented Case	12/19/2002	Padmavathi Baskar
8.	09/158,180	36671-763.201	US 2002-0127618	Abandoned -- Failure to Respond to an Office Action	5/15/2003	Jana A. Hines
9.	09/877,933	36671-763.401	7,052,858	Patented Case	05/10/2006	Jana A. Hines
10.	09/158,945	36671-764.201		Abandoned -- Failure to Respond to an Office Action	11/26/2002	Rodney P. Swartz
11.	09/765,018	36671-764.301	US 2001-0021511	Abandoned -- Failure to Respond to an Office Action	12/10/2002	Jeffrey J. Stucker
12.	10/155,163	36671-764.401	6,908,739	Patented Case	6/1/2005	Rodney P. Swartz
13.	09/158,347	36671-765.201	6,207,395	Patented Case	3/9/2001	Jeffrey J. Stucker
14.	09/754947	36671-770.201	6,828,110	Patented Case	11/18/2004	Padmavathi Baskar
15.	10/890083	36671-770.301	7,329,738	Patented Case	1/23/2008	Padmavathi Baskar
16.	10/339744	36671-771.201	7,374,888	Patented Case	4/30/2008	Padmavathi Baskar
17.	10/447300	36671-772.201	US 7,393,647	Patented Case	6/11/2008	Padmavathi Baskar
18.	11/614,836	36671-774.201	US 2007-0172906 A1	Non Final Action Mailed	5/12/2009	Unsu Jung

I. ☐ 37 CFR §1.98(d). Copies of patents, publications and pending U.S. patent applications, or other information specified in 37 C.F.R. § 1.98(a) are not provided herewith because:

☐ Pursuant to 37 CFR §1.98(d)(1) the information was previously submitted in an Information Disclosure Statement for another application under which this application claims priority for an earlier effective filing date under 35 U.S.C. 120.

Application in which the information was submitted: \_\_\_\_\_

Information Disclosure Statement(s) filed on: \_\_\_\_\_

AND

☐ The information disclosure statement submitted in the earlier application complied with paragraphs (a) through (c) of 37 CFR §1.98.

J. ☒ *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$180.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 23-2415 (Docket No. 36671-747.201).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Dated: July 7, 2009

By: Anavelys Ortiz-Suarez  
Anavelys Ortiz-Suarez, Ph.D, J.D.  
Reg. 63,535

650 Page Mill Road  
Palo Alto, CA 94304-1050  
(650) 493-9300  
Customer No. 80984